

THE SECRETARY OF THE INTERIOR
WASHINGTON

[Insert date]

Honorable [Insert Name]
Governor of [Insert State]
[Insert Address]

Dear Governor [Insert Name]:

The Bureau of Reclamation, after consultation at a number of meetings between May and September 16, 2001 with representatives of the Governors of the Colorado River Basin States, the Upper Colorado River Commission, appropriate federal agencies, Indian tribes and others interested in Colorado River operations, prepared the 2002 Annual Operating Plan (AOP) for Colorado River reservoirs. I approved and transmitted the 2002 AOP on January 14, 2002 to the Governors of the Colorado River Basin States and other members of the Colorado River Management Work Group. This is a supplement to the 2002 AOP, and was the subject of further consultation held on [date(s)] with members of the Colorado River Management Work Group.

Taking into account the relevant considerations, the "Full Domestic Surplus" condition was determined to be the criterion governing the operation of Lake Mead for calendar year (CY) 2002 in the 2002 AOP in accordance with: Article II(B)(2) of the Decree entered by the Supreme Court in *Arizona v. California*, 376 U.S. 340, 342 (1964); Article III(3)(b) of the Criteria for the Coordinated Long-Range Operation of the Colorado River Reservoirs Pursuant to the Colorado River Basin Project Act of September 30, 1968; and Section 2(B)(2) of the Interim Surplus Guidelines, published at 66 Fed. Reg. 7772-82 (Jan. 25, 2001).

Pursuant to this determination, "surplus" water is not available for use by agricultural contractors in Arizona, California or Nevada during CY 2002. Accordingly, the California agricultural contractors in Priorities One, Two, and Three are limited by the terms of the 2002 AOP to a maximum collective use of Colorado River water of 3.85 million acre-feet (MAF). Palo Verde Irrigation District, Imperial Irrigation District and the Coachella Valley Water District have requests pending before Reclamation for additional deliveries of water during the remaining weeks of CY 2002. These pending requests are for water in addition to quantities authorized in approved water orders for the year, and are projected to exceed the maximum amount of water available under the determinations made in the 2002 AOP.

Subject to the provisions of this supplement to the 2002 AOP, I authorize Reclamation to release water to these three agricultural contractors in Priorities One, Two, and Three to meet their pending requests in excess of their previously approved annual water orders. If the final Supreme Court decree accounting data for CY 2002 indicate that more than 3.85 MAF were consumed by these agricultural contractors, each contractor shall be required to compensate for its overuse in future years as determined by the Secretary after consultation with the contractor, representatives of the Governors of the Colorado River Basin States and other members of the Colorado River Management Work Group. Compensation for overuse shall be in the form of

adjustments to prospective consumptive use approvals. Determination of overuse shall be based on final Article V decree accounting data for CY 2002 prepared by Reclamation, and shall be determined on an individual contractor basis. Reclamation will recognize that the responsibility for compensation for overuse by one California contractor may be assumed by another California contractor under appropriate agreements between California contractors.

This authorization for release of additional water to any of the three contractors during the remainder of CY 2002 is subject to the following specific conditions: this supplement shall remain in effect for the remainder of CY 2002; the contractor shall compensate for any overuse of water that exceeds the amounts authorized in the 2002 AOP and previously approved water orders; diversion of any water in excess of the amounts contained in previously approved water orders by any of the contractors shall constitute an irrevocable acceptance by that contractor of the terms and conditions established by the authorization contained in this supplement to the 2002 AOP and to the limited modification of their contractual entitlement to Colorado River water in future years to allow for compensation for overuse; reductions as a result of compensation for overuse under this supplement to the 2002 AOP shall not count toward compliance with benchmarks established in Section 5 of the Interim Surplus Guidelines or toward water use reductions otherwise required by agreements among the California contractors, including reductions required by the Quantification Settlement Agreement and its related documents; all other provisions of the 2002 AOP remain in effect.

Insofar as diversion of water during CY 2002 in excess of previously approved water orders constitutes an irrevocable acceptance of these provisions, any contractor which does not accept these provisions shall not divert water in excess of previously approved water orders during the remainder of CY 2002. The need for compensation for overuse shall be eliminated if ~~water is a flood-control released~~ from Hoover Dam ~~for flood control purposes~~ ~~is required~~ ~~prior to the overuse of water being fully repaid by the contractor~~. Nothing in this supplement to the 2002 AOP reflects a determination on the part of Reclamation as to the reasonable and beneficial use practices of the contractors receiving water in excess of their previously approved annual water orders. Nothing in this supplement to the 2002 AOP is applicable to any future Secretarial determination.

The importance of reducing California's use of water in excess of its 4.4 MAF mainstream basic apportionment was a critical factor in the adoption of specific and objective Interim Surplus Guidelines, which are in effect for the first time this year. See 67 Fed. Reg. 41733 (June 19, 2002). This fact, combined with recent years of drought, decreasing system storage and increasing demands for Colorado River water supplies, dictate that all users of Colorado River water adhere to the limitations established in conformance with the "Law of the River."

Sincerely,

[Insert Signature]